



DEPARTMENT OF ENVIRONMENTAL PROTECTION
Monthly Enforcement Report
for actions during January 2008
DISTRIBUTED: March 26, 2008

This report has been prepared to satisfy a statutory obligation DEP has to inform the public of certain enforcement resolutions. This report does not include summaries of the hundreds of compliance related activities occurring every month because it is impractical to capture a sampling of those activities that would be representative of that work. Please contact Peter Carney at (207) 287-4305 or Peter.J.Carney@Maine.gov for additional information regarding the activities listed in this report.

The following cases were resolved to achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; and impose civil penalties to deter similar actions in the future.

Administrative Consent Agreements Approved by the Board of Environmental Protection and Department of the Attorney General (party followed by location of violation):

Air:

Darling's d/b/a/ Darling's Auto Mall, Ellsworth, Maine. Darling's d/b/a Darling's Auto Mall ("Darling's") violated Maine's rule for *New Motor Vehicle Emission Standards* by selling a "non-California-Certified" vehicle in Maine. To resolve the violation, Darling's paid \$3,240.00 as a civil monetary penalty.

Dick Bournival Dodge, Inc., York, Maine. Dick Bournival Dodge, Inc. ("Bournival") violated Maine's rule for *New Motor Vehicle Emission Standards* by selling a "non-California-Certified" vehicle in Maine. Following Department involvement, Bournival submitted an action plan to the Department to avoid future repeat violations. To resolve the violation, Bournival paid \$1,885.00 as a civil monetary penalty.

Lee Chrysler Jeep, Auburn, Maine. Lee Chrysler Jeep ("Lee") violated Maine's rule for *New Motor Vehicle Emission Standards* by selling a "non-California-Certified" vehicle in Maine. To resolve the violation, Lee paid \$2,584.00 as a civil monetary penalty.

Rowe Ford Sales, Westbrook, Maine. Rowe Ford Sales ("Rowe") violated Maine's rule for *New Motor Vehicle Emission Standards* by selling a "non-California-Certified" vehicle in Maine. To resolve the violation, Rowe agreed to establish a written work policy to prevent the future sale or lease of non-compliant vehicles, implement a training program for dealership personnel concerning the work policy, and paid \$3,275.00 as a civil monetary penalty.

Soderberg Company, Inc., Washburn, Maine. Soderberg Company, Inc. ("Soderberg") violated provisions of its Department-issued air emission license. During a Department inspection, Department staff documented that Soderberg failed to timely conduct required observation testing on rock crushers and used diesel fuel with sulfur content in excess of license limits. To resolve the violations, Soderberg paid \$1,500.00 as a civil monetary penalty.

Asbestos:

Harold Pulsifer, Portland, Maine. Harold Pulsifer ("Pulsifer") violated Maine's *Asbestos* laws and the Department's *Asbestos Management Regulations* while conducting an asbestos abatement activity at a location on 252 Woodford Street in Portland. Pulsifer failed to notify the Department in writing of an intention to engage in an asbestos abatement activity, failed to use licensed or certified asbestos professionals, failed to comply with pre-abatement requirements prior to engaging in an asbestos abatement activity, and failed to comply with applicable work practice requirements. Following Department involvement, Pulsifer retained the services of a licensed asbestos abatement contractor to conduct further abatement and disposal activities. To resolve the violations, Pulsifer will pay \$4,500.00 as a civil monetary penalty.



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Hazardous Waste:

Maine Media Workshops (relating to a facility formerly owned and operated by The Maine Photographic Workshops, Inc.), Rockport, Maine. This agreement relates to alleged violations at a photographic and film school formerly owned and operated by The Maine Photographic Workshops, Inc. ("TMPW") and presently owned by Maine Media Workshops ("MMW"). MMW acquired the equipment, materials, and intellectual property associated with the school on May 3, 2007. During TMPW's period of ownership, the Department asserted that TMPW violated provisions of the *Maine Hazardous Waste, Septage and Solid Waste Management Act* and the Department's rules concerning *Standards for Generators of Hazardous Waste, Land Disposal Restrictions*, and *Licensing of Hazardous Waste Facilities*. Specifically, the Department asserted that TMPW failed to determine if wastes generated were hazardous, failed to comply with license conditions related to precious metal recovery units, failed to mark containers of hazardous waste with the words "Hazardous Waste," failed to conduct and document daily inspections of hazardous waste containers, failed to provide and document a personnel training program for hazardous waste management, failed to develop and maintain a complete contingency plan for hazardous waste management, failed to submit a copy of a hazardous waste contingency plan to local emergency response agencies, failed to submit an annual report on hazardous waste activities, failed to keep containers of hazardous waste closed, and failed to retain land disposal restriction notices for manifested hazardous waste for at least five years. Following Department involvement, TMPW submitted a written response to the Department indicating corrective actions and hazardous waste management changes implemented. MMW denies any and all liability for violations occurring prior to its ownership, but agreed to undertake remaining corrective actions set forth in the agreement. Following its acquisition of the school, MMW did fail to transfer two licenses for the facility's three precious metals recovery units in violation of the Department's rules for *Licensing of Hazardous Waste Activities*. MMW subsequently filed an application for the transfer of two of the precious metals recovery units. With respect to the third unit, MMW advised the Department that it would cease operation of the third unit. MMW conducted and certified closure related to the third unit pursuant to the requirements of Department rules. To resolve the Department's claims, MMW paid \$4,500.00 as a civil monetary penalty.

Land:

Dwayne Boynton and Paul Penta, Bristol, Maine. Dwayne Boynton ("Boynton") and Paul Penta ("Penta") violated provisions of Maine's *Natural Resources Protection Act* when Penta hired Boynton to place approximately five cubic yards of sand on an existing sand beach adjacent to Biscay Pond. Neither Boynton nor Penta first obtained a permit from the Department for this activity. Following Department involvement, an inspection documented that the sand placed on the beach was removed and restoration work had been completed to the satisfaction of the Department. To resolve the violation, Boynton and Penta paid \$905.00 as a civil monetary penalty.

David Darling, Scarborough, Maine. David Darling ("Darling") violated provisions of Maine's *Natural Resources Protection Act*, *Erosion and Sedimentation Control Law*, and *Protection and Improvement of Waters* laws. Darling placed fill adjacent to a stream and allowed the fill to erode and discharge into a stream. At the time of a Department inspection of the subject property, no erosion controls were installed on the site. Following Department involvement, Darling submitted a restoration plan to the Department, which was approved, and has implemented the plan. To resolve the violations, Darling paid \$1,130.00 as a civil monetary penalty.



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Anisia Gifford, Kennebunkport, Maine. Anisia Gifford ("Gifford") violated provisions of Maine's *Natural Resources Protection Act* by causing the excavation of soil and vegetation and the placement of fill material in a coastal wetland without first obtaining a permit from the Department. Specifically, Department staff found that vegetation and soil had been excavated to construct an accessway approximately eight feet wide and fifty feet long in a coastal wetland. Excavated material was placed in the wetland which resulted in approximately 640 square feet of coastal wetland alteration. Following Department involvement, Department staff documented that all excavated material had been redistributed over the disturbed areas and seeded. To resolve the violation, Gifford agreed to reseed or replant as necessary to reestablish vegetation to its original state or near thereto as practical, and paid \$3,040.00 as a civil monetary penalty.

Tracy Gordon, Avon, Maine. Tracy Gordon ("Gordon") violated provisions of Maine's *Natural Resources Protection Act*, *Erosion and Sedimentation Control Law*, and *Protection and Improvement of Waters* laws. During a timber harvest operation, Gordon replaced a bridge over Mount Blue Stream without first obtaining a permit from the Department, displaced soil without taking measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource, and discharged soil to waters of the State without first obtaining a permit from the Department. Following Department involvement, Gordon and his employee attended a Maine Forest Service sponsored workshop on erosion and sedimentation control devices, submitted an after-the-fact permit by rule application for replacement of the bridge over Mount Blue Stream which was approved by the Department, and completed restoration work to the satisfaction of the Department. To resolve the violations, Gordon will pay \$4,100.00 as a civil monetary penalty.

David Greateon, Saco, Maine. David Greateon ("Greateon") violated provisions of Maine's *Natural Resources Protection Act* by failing to comply with the conditions of a Department-issued permit to alter 14,845 square feet of freshwater wetland as part of the construction of a private airstrip. Specifically, Greateon filled approximately 54,628 square feet of freshwater wetland. Following Department involvement, Greateon submitted a restoration plan to restore the freshwater wetland, which has been approved by the Department. To resolve the violation, Greateon agreed to implement the restoration plan and paid \$2,725.00 as a civil monetary penalty.

Robert Johnson, Beals, Maine. Robert Johnson ("Johnson") violated provisions of Maine's *Natural Resources Protection Act* by constructing a permanent structure and removing soil material and vegetation in a coastal wetland without first obtaining a permit from the Department. Specifically, Johnson constructed a rock wall and enlarged another wall using rocks from the intertidal zone, and removed vegetation and soil from the intertidal zone. To resolve the violation, Johnson agreed to remove the rock walls, randomly place the rocks in the area from where the rocks had been cleared, and paid \$1,300.00 as a civil monetary penalty.

Leavitt Earthworks Company, Inc., Gorham, Maine. Leavitt Earthworks Company, Inc. ("Leavitt") violated provisions of Maine's *Stormwater Management Law* and *Erosion and Sedimentation Control Law*. While constructing a subdivision, Leavitt failed to follow the Erosion and Sedimentation Control Plan approved in a Department licensing order issued under the *Stormwater Management Law* and failed to take measures to prevent the unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource. To resolve the violations, Leavitt agreed to immediately adhere to the Erosion Control Plan approved in the Department licensing order, have three employees attend a Department Nonpoint Source Training Center workshop on erosion and sedimentation control, and paid \$7,198.00 as a civil monetary penalty.



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Maine Drilling & Blasting, Inc., Augusta, Maine. Maine Drilling & Blasting, Inc. ("MD&B") violated provisions of Maine's *Site Location of Development Law* and a Department licensing order issued thereunder by failing to follow the ground vibration and air blast limits outlined in a Department-approved blasting plan. Monitoring reports submitted to the Department by MD&B following a Department request indicated that more than ninety blasts over the course of fifty-seven days exceeded either the air blast or ground vibration limits contained in the approved blasting plan. To resolve the violations, MD&B paid \$27,000.00 as a civil monetary penalty.

Town of Old Orchard Beach, Old Orchard Beach, Maine. The Town of Old Orchard Beach ("Town") violated provisions of Maine's *Natural Resources Protection Act* by displacing or removing sand and vegetation in a frontal dune, and constructing a permanent structure and placing fill in a frontal dune without first obtaining a permit from the Department. Specifically, Department staff observed that sand and dune vegetation had been removed or displaced to construct a retaining wall, that dune vegetation was removed and sand was bulldozed in a frontal dune to reshape beach contours, and sod and mulch had been placed and shrubs planted in a dune area. To resolve the violations, the Town agreed to submit a restoration plan to the Department to restore the dune areas to their original contours and vegetation, and implement the plan, and paid \$3,377.00 as a civil monetary penalty.

Kirk P. Pond and Anderson Landscaping, Inc., Cape Elizabeth, Maine. Kirk P. Pond ("Pond") and Anderson Landscaping, Inc. ("Anderson") violated provisions of Maine's *Natural Resources Protection Act* when Anderson acting as the agent of Pond placed fill material in a freshwater wetland without first obtaining a permit from the Department. Specifically, Department staff observed that fill had been placed in a freshwater wetland, impacting approximately 5,000 square feet of freshwater wetland, to construct a lawn area. Following Department involvement, Pond submitted a restoration plan to the Department which was approved, and Department staff determined that the wetland had been restored in accordance with the approved plan. To resolve the violation, Pond and Anderson paid \$806.00 as a civil monetary penalty.

Sam Sessions, South Paris, Maine. Sam Sessions ("Sessions") violated provisions of Maine's *Natural Resources Protection Act* and *Erosion and Sedimentation Control Law*. Sessions constructed a permanent structure in a stream without first obtaining a permit from the Department, disturbed soil in a freshwater wetland without first obtaining a permit from the Department, and displaced soil without taking measures to prevent unreasonable erosion of soil or sedimentation beyond the project site or into a protected natural resource. Specifically, Sessions installed a culvert in a stream and altered approximately 4,350 square feet of freshwater wetland to create a new driveway. Following Department involvement, Sessions applied for and was granted an after-the-fact permit for wetland fill and submitted an after-the-fact permit by rule notification for the stream crossing, which was approved by the Department. To resolve the violations, Sessions paid \$1,650.00 as a civil monetary penalty.

Mining:

George Berry, Phillips, Maine. George Berry ("Berry") violated provisions of Maine's *Performance Standards for Excavations* by expanding a gravel pit by more than five acres since 1970 without first filing a "Notice of Intent to Comply" as required by the *Performance Standards for Excavations*. To resolve the violation, Berry agreed to submit an after-the-fact Notice of Intent to Comply with the Department, paid past due annual fees, and paid \$2,500.00 as a civil monetary penalty.



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George C. Hall & Sons, Inc., Windsor, Maine. George C. Hall & Sons, Inc. ("Hall") violated provisions of Maine's *Performance Standards for Excavations* by expanding a gravel pit by more than five acres since 1970 without first filing a "Notice of Intent to Comply" as required by the *Performance Standards for Excavation* and excavated within fifty feet of a property boundary. To resolve the violations, Hall agreed to submit an after-the-fact Notice of Intent to Comply with the Department, either secure written agreements with affected abutters to allow the excavation of gravel within fifty feet of the property boundary or submit a restoration plan to completely restore the fifty-foot natural buffer strip, paid past due annual fees, and paid \$4,000.00 as a civil monetary penalty.

Longchamps & Son, Inc., Auburn, Maine. Longchamps & Son, Inc. ("Longchamps") violated provisions of Maine's *Performance Standards for Excavations* and *Natural Resources Protection Act*. Longchamps operated a gravel pit that drains externally without first obtaining a license from the Department, excavated gravel within five feet of the seasonal high water table without first obtaining a license from the Department, and constructed a permanent structure adjacent to a protected natural resource without first obtaining a license from the Department. To resolve the violations, Longchamps agreed to immediately cease gravel mining within five feet of the seasonal high water table unless a variance is applied for and obtained, submit an after-the-fact variance application for excavating gravel below the seasonal high water table and, if the after-the-fact variance is approved, immediately comply with all terms and conditions of the after-the-fact permit. In the event that the after-the-fact application is denied by the Department, Longchamps agreed to backfill areas of the pit where the water table is exposed, such that five feet of separation exists between the pit floor and the seasonal high water table. Longchamps paid \$3,418.00 as a civil monetary penalty.

Dennis M. Trafton, Jr., Lagrange, Maine. Dennis M. Trafton, Jr. ("Trafton") violated provisions of Maine's *Performance Standards for Excavations* by expanding a topsoil mine by more than five acres since 1970 without first filing a "Notice of Intent to Comply" as required by the *Performance Standards for Excavations*. Following Department involvement, Trafton filed the required Notice of Intent to Comply, which was approved by the Department. To resolve the violation, Trafton paid past due annual fees, and will pay \$4,000.00 as a civil monetary penalty.

Oil:

J.C.N. Construction Company, Inc., Baring, Maine. J.C.N. Construction Company, Inc. ("J.C.N.") violated provisions of Maine's *Oil Discharge Prevention and Pollution Control* laws by discharging heating oil to a public sewer and failing to immediately undertake clean-up of the discharge. The discharge occurred at the Border Patrol Calais Station, which was under construction at the time of the incident. J.C.N. is the contractor for construction of the building. To resolve the violations, J.C.N. agreed to submit to the Department for review and approval a written operating procedure for spill reporting and emergency response, and paid \$8,500.00 as civil monetary penalty.

Water:

Katahdin Paper Company, LLC, Millinocket, Maine. Katahdin Paper Company, LLC ("Katahdin") violated provisions of Maine's *Water Pollution Control* laws and provisions of the facility's waste discharge license issued thereunder. Katahdin is licensed to discharge treated process wastewaters and cooling waters to Millinocket Stream, a Class C water. Millinocket Stream is a tributary of the West Branch of the Penobscot River, and subsequently the Penobscot River. Katahdin's waste discharge license prohibits discharge from the facility from causing visible



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discoloration or turbidity in the receiving water, and prohibits effluent from lowering the quality of any classified body of water below its classification or lowering the existing water quality of any body of water if the existing quality is higher than the classification. The Department documented that phosphorous levels in effluent from the facility caused or contributed to growth of excess algae in the West Branch of the Penobscot River and the main stem of the Penobscot River, thereby impairing uses of the river such as fishing and recreation. Department sampling further documented that the algae blooms in the Penobscot River caused or contributed to depressed oxygen concentrations, thereby impairing habitat for fish and other aquatic life. To resolve the violations, Katahdin agreed to limit its discharge of total phosphorous to a designated level during May through September each year unless superseded by the terms of a subsequent license, conduct weekly effluent monitoring for total phosphorous and ortho phosphorous during May through September each year unless superseded by the terms of a subsequent license, and paid \$106,000.00 as a civil monetary penalty. Of the \$106,000.00 penalty amount, \$84,800.00 will be directed to three Supplemental Environmental Projects which include \$51,800.00 to the University of Maine for a direct mercury analyzer, \$25,000 for household hazardous waste collection in the Millinocket area, and \$8,000.00 to the Penobscot Indian Nation for in-stream water quality monitoring.